

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
EDWIN MALDONADO,
Plaintiff,

v.

OFFICER JOHN GUNSETT, et al.,
Defendants.
-----X**ORDER**

21 CV 3719 (VB)

On January 24, 2022, the Court received two documents from plaintiff labeled as the “second amended complaint:” one “second amended complaint” is attached to this Order, and the other “second amended complaint” has been separately docketed. For the reasons stated below, the Court will disregard the attached document and treat the separately docketed second amended complaint as the operative second amended complaint in this action.

On November 10, 2021, the Court directed the Attorney General to ascertain the identities of the thirteen John and Jane Doe defendants plaintiff sought to sue in his amended complaint. (Doc. #9). The Court also ordered that within thirty days of receiving this information, plaintiff must file a second amended complaint with the full names of the John and Jane Doe defendants identified by the Attorney General.

After the Attorney General updated the Court it was able to identify some, but not all of the John and Jane Doe defendants, the Court entered an Order dated January 12, 2022, directing plaintiff to file a second amended complaint containing the full names of the newly-identified John and Jane Doe defendants, as well as any additional identifying information or descriptive details regarding the remaining, unidentified John Doe defendants. (Doc. #15).

The separately docketed second amended complaint contains the full names of the John and Jane Doe defendants identified by the Attorney General, as well as the additional descriptive

details ordered by the Court. The attached document, by contrast, contains the full names of the John and Jane Doe defendants identified by the Attorney General, but not the additional descriptive details regarding the remaining, unidentified John Doe defendants.

In light of the above, it appears the attached document was drafted after plaintiff received the Attorney General's letter identifying certain of the John and Jane Doe defendants but before the Court's January 12, 2022, Order directing plaintiff to also include in the second amended complaint additional identifying details regarding the remaining, unidentified John Doe defendants.

Accordingly, it is HEREBY ORDERED that the separately docketed second amended complaint shall be considered the operative second amended complaint in this action. The Court shall disregard the second amended complaint attached to this Order.

Plaintiff is reminded to address all future correspondence to the Pro Se Intake Unit at the following address:

United States District Court
Pro Se Intake Unit
300 Quarropas St.
White Plains, NY 10601

The Court will not consider any future correspondence from plaintiff mailed directly to Chambers.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

Plaintiff also must notify the Court in writing if plaintiff's address changes, and the Court may dismiss the action if he fails to do so.

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

Dated: January 26, 2022
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Edwin MALDONADO

Write the full name of each plaintiff.

No. _____

(To be filled out by Clerk's Office)

**SECOND AMENDED
COMPLAINT**

(Prisoner)

-against-

Gunsett, 21 Civ. 3719 (VB)

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☐ Other: 8th Amendment

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

Edwin

First Name

Middle Initial

Maldonack

Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

MID-state Corr. Fac.

Current Place of Detention

P.O. Box 2500

Institutional Address

Marcy

County, City

NY

State

13403

Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☒ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1: Gerard Guiney
First Name Last Name Shield #
Dep. of Security (2005) Green-Haven
Current Job Title (or other identifying information)
Current Work Address
1220 Washington Ave Albany N.Y. 12226
County, City State Zip Code

NO. 8
Defendant 2: Evelyn Diaz
First Name Last Name Shield #
C.O. Evelyn Diaz J-Block officer
Current Job Title (or other identifying information)
Green Haven Cor. Fac. 594 Route 216
Current Work Address
Stormville N.Y. 12582
County, City State Zip Code

NO. 9
Defendant 3: Floyd Norton Disciplinary LT. (Captain Floyd Norton)
First Name Last Name Shield #
Captain Floyd Norton
Current Job Title (or other identifying information)
Green Haven Cor. Fac. Route 216
Current Work Address
Stormville N.Y. 12582
County, City State Zip Code

NO. 10th
Defendant 4: Amanda Saunders (Disciplinary Officer June 18, 2018)
First Name Last Name Shield #
Retired. C.O.
Current Job Title (or other identifying information)
DOCS 1220 Washington Ave
Current Work Address
Albany N.Y. 12226
County, City State Zip Code

V. STATEMENT OF CLAIM

Place(s) of occurrence:

Green Haven Corr. Fac / C/D Yard / Disciplinary office / J-Block / Cell Loc.

Date(s) of occurrence:

(Initial Gang Assault) 2005 Feb 1st / SHU Shower against Officer Gunset / Inter Months of 2005 / Month of May 2018 / June 17th 2018 / Aug. 2018

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

In the Beginning of 2005 - G-Block Officer Miller, had officers, illegally search, harass, threaten to beat me up if I talk back. I was then transferred to H-Block where I was beaten by officers and watch by a Sergeant (Feb 1st, 2005) Incident. From H-Block to SHU I was beaten Face First Through every Gate, while known Gang Members White Knight scream Racial Slurs C.O. Maligen. In the months of 2005 while in SHU Officer Gunset physically and sexually assaulted Plaintiff in shower with another officer and Sergeant. Plaintiff return to Green Haven 2018 After numerous letters to Deputy of Mental Health Ms. Medbury and to Depot Security Anthony C. Russo, Explaining the Assault and Separation from C.O. Gunset. Green Haven placed Plaintiff on the Draft After numerous of letter to the Administration of Green Haven, stating I fear for my life, Because of C.O. Gunset And known Gang Members who work at Green Haven (White-Knights) Racially Motivated Skin Head Correctional Officers. In the Month of May 2018, I WAS placed on transfer But After a week I WAS taken off transfer, and told to get my property from Reception Area, where C.O. Gunset is known to work at. He threaten Plaintiff along with Sergeant Rowe, for the 2005 Assault. While at Recreation a few days later from receiving property, I Plaintiff WAS notified to return Back to housing location Because Cell was

(Cont) PAGE 5

Burnt. Sergeant Rowe inform Plaintiff that cell was burnt. Because Plaintiff refused sexual acts with him Sergeant and Inmate, who worked as porter prior to cell being burnt. Sergeant Rowe made sexual advances to Plaintiff coming to his cell, and making Plaintiff pull his pants down and jerk off penis. Sergeant Rowe, placed Saboin and K-2 drugs on Plaintiff gate, for complying his request. Stated to Plaintiff I want you to work as a porter in J.C.P. Areas upstairs in J-Block. C.O. Evelyn Diaz J-Block steady officer witness. Sergeant take Plaintiff upstairs to J.C.P. along with another inmate who Plaintiff later had fight for refusing to have sex with him and Sergeant Rowe, after going to J.C.P. stop sink and having fingers placed in Buttocks of Plaintiff, Inmate forced himself inside Plaintiff while Sergeant Rowe watch then did the same acts while inmate watched out. Plaintiff ran away from J.C.P. AREA, BACK to LOCK location TRI J.C.P. Block First FL. After Plaintiff Cell was burnt, Sergeant Rowe ordered inmate to attack Plaintiff with weapon, which was later found. Because Plaintiff had another area Sergeant to search the inmate who worked for Sergeant Rowe. Plaintiff was transferred to A-Block and his property was taken to Reception Area (where C.O. Gunset worked and made inmates steal Plaintiff property and label him (Plaintiff) A snitch.) On June 17, 2018, Plaintiff was placed in keep lock recreation, where J.C.P. inmate was placed also to attack Plaintiff. Then officers pepper sprayed inmate. Transfer him Plaintiff to E-Block On June 18, 2018 Plaintiff was sent to disciplinary hearing and forced to fight inmate from J.C.P. He was assaulted by on June 17, 2018 in C.P. Block and officers yelled out Steele Cage Match scream with Disciplinary Lieutenant Floyd Norton (who is now Captain Floyd Norton) Maldonado is a RAT, Beat him up. Pepper sprayed by C.O. Amanda Saunders Eye-glasses taken out of Plaintiff pocket and smashed on floor. Plaintiff then taken to SHU Beat by C.O. the who way to SHU.

NOTE: Hon. Vincent Briceatti
Assistant Attorney General Bruce J. Turkle
in response to The Valentin Order, stated we have been unable to identify the lower ranking John Does referenced in NO. 2, 3, 4, 5, 6, and 7 Above. Does does not routinely maintain staffing information dating back to 2005 and we are informed that it has been destroyed in the ordinary course of business.

End of Report
Edwin Maldonado
Plaintiff
E.M.

Deny,
Feb. 1, 2005 Hon. Vincent Briceati

73 Officer H. Block known White Knight Gang-Members
who Assaulted Me, for C.O. Miller in G-Block

Next Day

While urine test was being administered
Plaintiff started urinating Blood. Sergeant on Duty, called
ordered nurse to cell of Plaintiff, who stated
I can't move it hurts everywhere. It was determine
Plaintiff should be moved to outside hospital Mt. Vernon
See Medical Records, Fractured Ribs bruised lung.

After Feb. 1st 2005 Assault on Plaintiff
A couple of months later C.O. Gunset ordered
Plaintiff to the shower, and Assaulted Plaintiff
Along with another officer and Sergeant, physically and sexually
Assaulted Plaintiff

1# Plaintiff suffered Deprivation of water
Food and showers. I.G. came to Plaintiff and warn Plaintiff
not to submit a civil lawsuit, or be subjected to a
new criminal charge against C.O. Gunset.

2# Plaintiff was Ashame of Sexual Assault.
told Family Members of sexual and physical Assault.
Once Plaintiff was Transferred Back to Green-Haven
2018. Plaintiff notify Dep. of Security to be removed from
Facility in Fear for his life and sexual Assault By C.O.
Gunset.

Date JAN. 14, 2022

End of Report
Edwin Maldonado
*
EAL:MM

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INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

Sustained injuries to Head, Face, arms, legs, lacerations
Along with Swollen neck injuries, extreme BACK pain
Mental and Emotional stress nightmares. loss of sleep
that lead to daily physician Medication for past 3-years
(2005 incident) Medication for 2005 incident from incident
to present day

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

\$ 1,000,000 (one million) Compensatory
\$ 1,000,000 (one million) Punitive
\$ 1,000,000 Emotional Stress

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

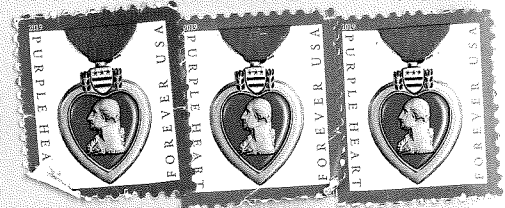
I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

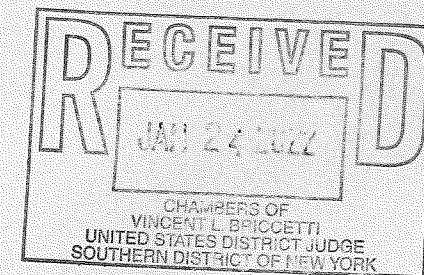
Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

<u>Jan. 14, 2022</u>		<u>Ed. Maldonado</u>
Dated		Plaintiff's Signature
<u>Edwin</u>		<u>MALDONADO</u>
First Name	Middle Initial	Last Name
<u>MID-STATE CONV. FAC.</u>		
Prison Address		
<u>P.O. Box 2500</u>	<u>N.Y.</u>	<u>13403</u>
County, City	State	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: Jan. 19, 2022



10: Chambers of Vincent L. Briccetti
United States District Judge
United States Courthouse
300 Quarropas St.
White Plains, N.Y.
10601



4-E

APPROVED By D. Kilner
[Signature]